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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)

**COMMENTS OF ENCOMPASS, INC. SUPPORTING
CONSOLIDATION OF D, E, AND F BLOCK AUCTIONS**

Encompass, Inc. ("Encompass"), by its undersigned counsel, hereby submits its Comments on the FCC Public Notice dated December 23, 1994, in which the Commission seeks comment on whether the "F" block broadband PCS licenses should be up for competitive bidding in a single auction or in a combined auction with the "D" and "E" block PCS licenses.^{1/} As a qualified designated entity, Encompass plans to participate in the upcoming auction for the "C" block licenses, and depending upon the outcome of that auction, may participate in the "F" block auction.

Encompass supports (i) a single auction for the "D," "E," and "F" block licenses, (ii) amending the collusion rules to allow bidders in a combined auction of the "D," "E," and "F" block licenses to enter into joint bidding arrangements and engage in discussions with other bidders that have applied for licenses in the same geographical area, (iii) extending the installment payment option to entrepreneurs that win any of the "D," "E," or "F" block licenses,

^{1/} See FCC Public Notice "FCC Announces Short Form Date For 493 Licenses Located in the C Block For Personal Communications Services in the 2 GHz Band and Requests Comment On Auction Of F Block Licenses" (December 23, 1994) (*Public Notice*).

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and (iv) a uniform \$0.015 per pop per MHz upfront payment for entrepreneurs bidding on the "D," "E," and "F" block licenses.

I. A Single Auction For The "D," "E," and "F" Block Licenses Would Enhance An Entrepreneur's Ability To Pursue 20 MHz or 30 MHz Aggregations Strategies Without Impairing The Ability Of Other Entities To Win A Single 10 MHz License Or Two 10 MHz Licenses

The "D," "E," and "F" block licenses are highly interdependent and therefore should be combined in a single auction. As the Commission has recognized, the 1,479 "D," "E," and "F" block licenses are likely substitutes for each other.^{2/} All of these licenses will serve basic trading areas ("BTAs") and will have the same amount of bandwidth (10 MHz) to provide wireless services to customers. Thus, a "D" or "E" block license would be functionally equivalent to, and therefore a substitute for, a "F" block license. The "D," "E," and "F" block licenses also are complementary to each other in that they can be aggregated to create 20 MHz or 30 MHz PCS license blocks, comparable to the licensed spectrum awarded in the "A," "B," and "C" blocks.

With over 2,071 PCS licenses up for competitive bidding,^{3/} the Commission originally concluded that a sequence of three PCS auctions -- first, an auction of the "A" and "B" block licenses, followed by an auction of the "C" and "F" block licenses, and then an auction of the "D" and "E" block licenses -- would balance the competing concerns of "awarding licenses to

^{2/} *Public Notice* at 2-3.

^{3/} There are 99 "A" and "B" block licenses, 493 "C" block licenses, and 1,497 "D," "E," and "F" block licenses up for competitive bidding in the broadband PCS auctions.

the parties who value them most highly, keeping the auction process simple and manageable, minimizing administrative delay, and fostering designated entity participation."^{4/} In its Public Notice, however, the Commission determined that "administratively it is preferable for the FCC to increase the size and complexity of the auctions incrementally as we gain more auction experience,"^{5/} and therefore decided *not* to go from an auction of 99 "A" and "B" block licenses to an auction of 986 "C" and "F" block licenses. Instead, the Commission decided to increase the size and complexity of the auctions incrementally by first auctioning the 99 "A" and "B" block licenses and then auctioning the 493 "C" block licenses (rather than auctioning all of the 986 "C" and "F" block licenses at the same time). This incremental approach will provide the Commission with the opportunity to improve the efficiency of the auction process, while still increasing the number of PCS licenses up for competitive bidding in the second broadband PCS auction by a factor of five (from 99 licenses to 493 licenses).

The next logical step in the broadband PCS auction process would be to auction the remaining 1,479 "D," "E," and "F" block 10 MHz BTA licenses in a single auction. A single auction would provide bidders the most information about the value of these licenses during the course of the auction, which would in turn provide bidders the most flexibility to pursue aggregation or back-up strategies. For example, if the Commission conducts a single auction of the "D," "E," and "F" block licenses, an applicant that is unsuccessful in the "C" block (30 MHz) auction would still have an opportunity to obtain 30 MHz or 20 MHz of spectrum by

^{4/} *Fifth Report and Order*, 9 FCC Rcd 5532, 5547 (1994).

^{5/} *Public Notice* at 2.

combining "D," "E," and "F" block licenses, or obtain only a single 10 MHz license. Further, non-entrepreneurs would not be penalized by a combined "D," "E," and "F" block auction and could still pursue a single 10 MHz "D" or "E" block license or 20 MHz of spectrum through an aggregation strategy.

A combined "D," "E," and "F" block auction, rather than separate auctions, also would likely result in more vigorous competition among several strong bidders and the award of licenses to those who value them the highest. In addition, a combined auction would serve the public interest by fostering competition among bidders, yielding more revenue from the auctioning of the public spectrum, and expediting service to the public through the auctioning of all of the remaining broadband PCS licenses in a timely fashion. The Commission will be well-prepared to administer a combined "D," "E," and "F" block auction of 1,479 licenses after administering a "C" block auction that will be five times the size of the "A" and "B" block auction.

II. The Commission Should Amend Its Collusion Rules To Allow Bidders In A Combined Auction Of "D," "E," and "F" Block Licenses To Engage In Discussions With Other Bidders For Licenses In The Same Geographical Areas

The Commission should amend its collusion rules to permit bidders in a combined auction of "D," "E," and "F" block licenses to engage in discussions with other bidders who have applied for other 10 MHz BTA licenses within the same geographical area. By making this limited exception to the collusion rules, bidders in a combined auction of "D," "E," and "F"

block licenses would be able to enter into discussions with other bidders on combining their resources to pursue a 20 MHz or 30 MHz aggregation strategy.

The collusion rules currently prohibit applicants from engaging in discussions concerning bidding strategy with other parties who have applied for licenses in the same geographical area.^{6/} Thus, an applicant for a "F" block license would be prohibited from discussing its bidding strategy with an applicant for a "D" or "E" block license. By amending the collusion rules to allow bidders in a combined auction of "D," "E," and "F" block licenses to engage in discussions concerning bidding strategies with other bidders that have applied for licenses in the same geographical area, the Commission will permit "the formation of efficiency enhancing bidding consortia that pool capital and expertise and reduce entry barriers for small firms and other entities who might not otherwise be able to compete in the auction process."^{7/} At the same time, the Commission will not compromise its objective of "preventing parties, especially the largest firms, from agreeing in advance to bidding strategies that divide the market according to their strategic interests and disadvantage other bidders."^{8/}

^{6/} See *Fourth Memorandum Opinion and Order*, 9 FCC Rcd 6858, 6868 (1994).

^{7/} See *Second Report and Order*, 9 FCC Rcd 2348, 2387 (1994).

^{8/} *Id.* at 2386.

III. The Commission Should Extend The Installment Payment Option Applicable To Entrepreneurs In Block "F" To Entrepreneurs In Blocks "D" and "E" and Should Apply the Same Upfront Payment Requirement of \$0.015 per pop per MHz To Entrepreneurs Bidding For "D," "E," and "F" Block Licenses

To encourage entrepreneurs to fully participate in a combined "D," "E," and "F" block auction, the Commission should extend the installment payment option applicable to entrepreneur block licenses ("F" block licenses) to non-entrepreneur block licenses ("D" and "E" block licenses), provided that the entities meet the financial and other requirements for installment payments established by the Commission for entrepreneur block licenses. By extending the installment payment option to entrepreneurs that win "D" and "E" block licenses, the Commission will "address the inability of small businesses to obtain financing and will enable these entities to compete more effectively for the auctioned spectrum."^{2/}

A uniform upfront payment based upon \$0.015 per pop per MHz for entrepreneurs bidding on the "D," "E," and "F" block licenses will provide these entities with the flexibility to change their bidding strategies for comparable licenses. For example, because the upfront payment determines eligibility to bid for licenses, if an applicant submits an upfront payment for three "F" block licenses and during the auction process decides to pursue one "F" block license and two "D" or "E" block licenses, it would be prohibited from bidding on all three of these licenses unless that same \$0.015 per pop per MHz upfront payment formula is applied.

^{2/} *Fifth Report and Order*, 9 FCC Rcd at 5591.

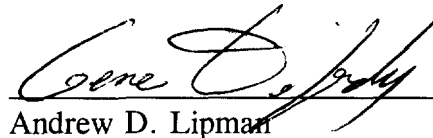
IV. Conclusion

Encompass believes that these changes to the Commission's PCS rules will facilitate competition for the "D" and "E" block licenses and enable entrepreneurs to pursue aggregation strategies or bidding consortia without impairing the ability of non-entrepreneurs to participate in the broadband PCS auctions.

Respectfully Submitted,

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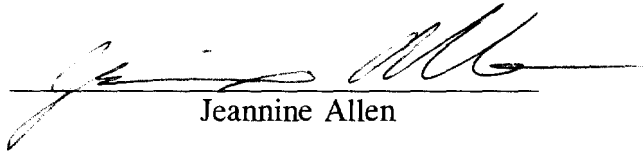
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Dated: January 25, 1995

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of January, 1995, copies of Comments of Encompass, Inc. Supporting Consolidation of D, E, and F Block Auctions were delivered by hand to all parties on the attached service list.



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